

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,
et al.,

Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS

(Jointly Administered)

EMPRESAS OMAJEDE INC.

v.

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO,

Debtor.

PROMESA Title III

**This filing relates only to the
Commonwealth and shall only be
filed in Case No. 17-3283.**

Re: ECF No. 24823

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA", and together with the Commonwealth, COFINA, HTA, ERS, and PREPA, the "Debtors") (Bankruptcy Case No. 19-BK-5532-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

**RESPONSE OF THE COMMONWEALTH OF PUERTO RICO
TO MOTION FOR LEAVE TO AMEND EMPRESAS OMAJEDE’S
PROOF OF CLAIM (KROLL CLAIM #70324), FOR LEAVE TO
FILE SPANISH LANGUAGE DOCUMENTS, AND FOR ORDER GRANTING
30 DAYS TO OBTAIN CERTIFIED TRANSLATIONS [ECF NO. 24818]**

To the Honorable United States District Court Judge Laura Taylor Swain:

The Commonwealth of Puerto Rico (the “Commonwealth”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as the sole Title III representative of the Commonwealth pursuant to Section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² respectfully submits this response (the “Response”) to the *Motion for Leave to Amend Empresas Omajede’s Proof of Claim (Kroll Claim #70324), for Leave to File Spanish Language Documents, and for Order Granting 30 days to Obtain Certified Translations* [ECF No. 24818] (the “Motion”), filed by Empresas Omajede Inc. (“Empresas” or the “Claimant”). In support of the Response, the Commonwealth states as follows:

RESPONSE

1. Empresas filed Proof of Claim No. 70324 (the “Claim”) against the Commonwealth on June 25, 2018,³ asserting liabilities associated with (1) \$323,999.94 in allegedly unpaid rent for the period from September 2016 through May 2017, (2) \$66,666.66 in allegedly unpaid rent for June 2017, for which Empresas asserts administrative expense priority, (3) \$4,805 in allegedly

² PROMESA is codified at 48 U.S.C. §§ 2101–2241.

³ The Claim amended a previously-filed claim, Proof of Claim No. 21372, which has since been disallowed and expunged. *See Order Granting the Two Hundred Ninety-Eighth Omnibus Objection of the Commonwealth of Puerto Rico, Puerto Rico Highways and Transportation Authority, and Employees Retirement System of the Government of the Commonwealth of Puerto Rico to Subsequently Amended Claims* [ECF No. 16823].

unpaid invoices for minor repairs, and (4) \$9,698.43 in allegedly unpaid electricity bills for March and April 2017.

2. On May 10, 2023, the Commonwealth filed the *Objection of the Commonwealth of Puerto Rico to Proof of Claim (Claim No. 70324) of Empresas Omajede, Inc. and to Motion for Allowance and Payment of Administrative Expense Claim Pursuant to 11 U.S.C. § 503* [ECF No. 24186] (the “Claim Objection”). The Claim Objection seeks to (1) disallow the portion of the Claim asserting allegedly unpaid electricity bills, as such bills were already paid post-petition, (2) disallow the portion of the Claim asserting allegedly unpaid rent, because the Commonwealth contends that no written lease was in effect for the asserted months, and in accordance with Puerto Rico law, government entities are not liable for rent payments in the absence of a written lease, and (3) allow the portion of the Claim asserting allegedly unpaid invoices for minor repairs. Claim Objection at 5. The Claim Objection is currently scheduled for hearing at the omnibus hearing scheduled to take place on August 30, 2023.

3. On July 31, 2023, Empresas filed *Empresas Omajede’s Response to the Fourth Objection (Dkt. 24186) to its Proof of Claim (Claim # 70324) and to its Motion for Allowance and Payment of Administrative Expense Claim (Dkt. 23272)* [ECF No. 24819] (the “Claim Objection Response”). Therein, Empresas acknowledges that the electricity bills were paid post-petition, but advances several arguments supporting the validity of the allegedly unpaid rent payments. Empresas filed its Motion concurrently with the Claim Objection Response.

4. The Motion seeks (1) leave to amend the Claim to submit “additional supporting documentation, together with a written explanation of the basis of the claim and a table setting forth the amounts due with respect to the pre-petition claim,” (2) leave to file the additional supporting documentation in the Spanish language, and (3) “an order setting forth the time to

submit certified translations, for which Empresas Omajede requests 30 days.” Mot. at 4. The Motion does not specify the additional supporting documentation Empresas intends to submit.

5. The Commonwealth understands the proposed amendments to the Claim consist solely of submission of additional supporting documentation demonstrating Empresas’ alleged right to payment of the allegedly unpaid rent, and, on that basis, does not oppose the request to amend the Claim.

6. With respect to the Motion’s request for 30 days to submit certified translations of Spanish-language documents, the Commonwealth notes that 30 days from the date of the Motion would be August 30, 2023, the date when the Claim Objection is currently scheduled to be heard. The Commonwealth does not oppose granting Empresas 30 days from the date of the Motion to submit certified translations of the supporting documentation, provided that the hearing on the Claim Objection is adjourned to the next available omnibus hearing, which is scheduled to take place on October 4, 2023. Assuming the Claimant submits the amended Claim, supporting documentation, and certified translations no later than August 30, 2023 (30 days from the filing of the Motion), with the Court’s leave, and the hearing on the Claim Objection being adjourned to October 4, 2023, the Commonwealth proposes to file its reply to the Claim Objection by **September 20, 2023** (14 days in advance of the hearing).

CONCLUSION

7. For the foregoing reasons, the Commonwealth does not oppose the relief requested in the Motion, provided that the hearing on the Claim Objection be adjourned to October 4, 2023, and the corresponding deadline to submit a reply on the Claim Objection be adjourned to September 20, 2023.

Dated: August 8, 2023
San Juan, Puerto Rico

Respectfully submitted,

PROSKAUER ROSE LLP

/s/ Brian S. Rosen

Martin J. Bienenstock (pro hac vice)

Brian S. Rosen (pro hac vice)

Eleven Times Square

New York, NY 10036

Tel: (212) 969-3000

Fax: (212) 969-2900

O'NEILL & BORGES LLC

/s/ Hermann D. Bauer

Hermann D. Bauer

USDC No. 215205

Carla García-Benítez

USDC No. 203708

Gabriel A. Miranda

USDC No. 306704

250 Muñoz Rivera Ave., Suite 800

San Juan, PR 00918-1813

Tel: (787) 764-8181

Fax: (787) 753-8944

*Attorneys for the Financial Oversight
and Management Board as
representative for the Commonwealth
of Puerto Rico*

CERTIFICATE OF SERVICE

I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to all CM/ECF participants in this case.

/s/ Hermann D. Bauer
Hermann D. Bauer